

Your Legal Duties: Ethics, Public Records, & Open Meetings

Governor's Commission on Government Reform,
Efficiency, and Performance

Overview

- Introduction
- Ethics
- Public Records
- Open Meetings
- Questions

Introduction

- David Rabe
 - Assistant Legal Counsel in the Office of the Governor
 - Contact me anytime with questions
 - Phone: (608) 266-7602
 - Email: david.rabe@wisconsin.gov

Thank you for your hard work and commitment to ethics!

Main Points on Ethics

- Be Vigilant
 - Laws are not intuitive.
- Be Steadfast
 - The Governor is very committed to ethics, which requires all of his appointees to be as well.
- Be Aware of Your Responsibilities
 - This presentation is geared toward members of the Commission who hold no other state office.
 - If you already hold another public office, consider this a refresher, understanding that additional restrictions may apply to you.

Rules and Guidance: Personal Benefit

- DO NOT use your position on the Commission for private gain, either for you, or for any member of your immediate family, or for any organization with which you are associated.
- DO NOT **solicit** or **accept** ANYTHING of value if it an outside observer could reasonably perceive it as influencing your judgment on official Commission business.
- DO NOT personally keep gifts that are in any way related to your position on the Commission.
 - You must consider these items as gifts to the State of Wisconsin, not to you.

Examples: What You Cannot Accept

- An invitation for all members of the Commission to attend a special reception or dinner.
- A gift from a business owner whose industry might be directly affected by the work of the Commission.
- All-expenses-paid transportation to and from Commission meetings, *if* the only reason it is being provided to you for free is because of your position on the Commission.
- A free dinner or event ticket from someone who wants to discuss your work on the Commission – *you must pay the full market value.*
- Gift from someone as a “thank you” for your work on the Commission.

Examples: What You Can Accept

- Anything that would likely have been given to you for the same reasons even if you were not serving on the Commission.
 - E.g., gifts from old friends, family, or gifts related to other employment
- Anything available to the general public on the same terms.
- Anything paid for by the State of Wisconsin.
- Meals or other expenses offered in connection with a talk you are giving
 - E.g., if invited to speak at a luncheon about your role on Commission, you may accept food and reasonable expenses in connection with your talk.
- Anything of unexceptional value (info brochure, pens, etc.)

*Burden is always on **YOU** to prove it was given for reasons unrelated to your position!*

Public Records

- Wisconsin has a very comprehensive Public Records Law.
- All **Commission business** is a matter of public record.
 - Memos
 - Emails
 - Text Messages
 - Etc.
- Anything you send to state agencies will be retained and released as a public record by that agency.
- Additionally, it is your independent duty to keep and retain all of your own records of your work.

What is a Public Record

- Any document or communication you create, keep, send, or receive in doing your work for the Commission.
- Exceptions:
 - Anything prepared solely for your personal use
 - Drafts, notes, preliminary computations, etc.
 - Copyrighted materials
 - Attorney-Client Privileged communication
 - Your personal data and information
 - Duplicates of existing records

Keeping Your Records

- Do not delete any Commission-related records.
- Make sure to retain all emails, documents, and other communications conducting Commission business.
 - Waylon Hurlburt should be copied on all Commission-related emails.
 - If you send or receive any other emails about official Commission business, forward them to Waylon for retention.
 - Important, substantive text messages, voicemails about Commission business should be copied into an email message and forwarded to Waylon for retention.

Responding to Requests

- If you receive a formal request for records related to the Commission, let me know.
- We will handle the response on your behalf.
- Always be prepared to collect and search your records in response to requests.
- Any questions on Public Records, please contact me.

Open Meetings Law

- All Commission meetings are subject to Wisconsin's Open Meetings Law.
- Every meeting **must** be open to the public.
 - Public Notice at least 24 hours in advance
 - Public Access
 - No closed sessions

Complying with Open Meetings

- Outside of regular Commission meetings, no group discussions of Commission business (e.g., 50% of members)
 - Group e-mail discussion threads
 - Conference Calls
- Unintentional Meetings: Avoid a “Walking Quorum”
 - Example 1: Copying just a few members on an email chain initially, but then forwarding it to others one at a time to loop them in.
 - Example 2: Calling around to other members to get all of their thoughts on an issue rather than discussing it during Commission meetings.
- Best Practices: Keep external discussions of Commission business with other members to a minimum.

What is Allowed?

- One-way emails from us regarding agendas, scheduling, etc.
- Talking to other members individually.
 - *Be careful: Starting broader discussions with multiple members—even one at a time—could become a walking quorum.*
 - *Make sure all emails discussing Commission business are forwarded to Waylon Hurlburt for retention as public records.*
- Chance social gatherings or other conferences and meetings among members, if no Commission business is discussed.
- Participation in Commission working groups, as long as fewer than 50% of Commission members participate in any one group.
- **BOTTOM LINE:** Do not discuss commission business whenever 50% of members are participating.

Questions?



Measuring Effectiveness of Government Streamlining Commissions

Dr. Carmine Scavo
Department of Political Science
East Carolina University



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Definition

- Appointed by either the governor or state legislature
- Goals of reducing redundancies & improving efficiency in state government
 - Reducing rules & regulations
 - Deregulation & privatization
 - Improving state tax code to make it more efficient & equitable
- Background from three traditions:
 - Reformist era of early 1900s bringing business-like practices to government
 - Reinventing government movement of 1990s
 - Base Realignment & Closure (BRAC) process developed by Congress & President first used in 1988



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Important Characteristics

- Nonpartisan or bipartisan in nature
- Relatively small number of members
- Representatives of both public & private sectors
- Representatives with political, managerial, & policy expertise
- Develop recommendations for governor & and/or state legislature



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Case Studies

- California 21st Century Commission
- Colorado Pits & Peeves Roundtable Initiative
- Louisiana Streamlining Government Initiative
- Maine Initiative to Streamline & Prioritize Core Government Services
- Michigan Commission on Governmental Efficiency
- New Mexico Government Restructuring Task Force
- Virginia SAGE Commission on Government Reform & Restructuring



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California

- Appointed by Governor Schwarzenegger in 2008
- Focused solely on tax policy
- Largest budget & most significant staff support from state employees
- Delivered report in September 2009
 - Recommended doing away with sales tax & introducing a variation of VAT
 - NOT a unanimous vote
 - Governor called special session of state legislature to consider proposals
 - No legislative action on proposals



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Colorado

- Appointed by Governor Hickenlooper in 2011
- Most different type of commission
- Did not make legislative proposals
 - Instead this was designed to improve customer service to business from state agencies & remove barriers to growth
- Headed by Barbara Kelley, director of state's Department of Regulatory Agencies (DORA)
 - Held six roundtables throughout the state
 - Compiled list of recommendations that participants repeatedly mentioned
- Given nature of recommendations these could be implemented without legislative approval



Louisiana

- Created by Governor Jindal in 2009
- Composed of ten members who were all public sector
 - Conducted five listening sessions with private sector
 - However, this same composition may have given impression that only select interests were being consulted
 - “The factors that made the commission successful at the same time prevented it from being successful” – State Senator Jack Donahue (Chair of Commission)
 - No state budget
 - Run out of existing state funds & voluntary help from Mercatus Center & others
 - 25 of 238 recommendation enacted
 - If all recommendations had been adopted would have saved 3% of state budget



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Maine

- Appointed by Governor LePage in 2011
- Charge to the commission was to find \$25 million in budgetary savings
- Made precise savings estimates for their recommendations
 - Spending reductions of \$24,738,535
 - Additional undedicated revenue of \$424,688
 - Total biennial savings of \$25,163,223 or about 0.3% of Maine state budget



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Summary of Cases

	California	Colorado [†]	Louisiana	Maine	Michigan	New Mexico	Virginia
Appointed by	Gov/ State Leg*	Governor	Governor	Governor	Statute	Legislature	Governor
Time Span	2 months	Ongoing	4 months	4 months	21 months	8 months	6 months
Private/Public	12/2	†	4/6	5/7 [‡]	6/3	0/17 [§]	13/18
Chair	Private**	Dept Head	Senator	Private	Private	Senator	Private**
Focus	Narrow (Taxes)	Mid-Range (Services)	Broad	Narrow (Budget)	Broad	Broad	Broad
Budget	\$650,000	Existing	Existing	Existing	Existing	\$100,000	Existing

NOTES:

*Half the membership appointed by the governor & half by the state legislature

[†]Colorado's Pits & Peeves Initiative did not involve an independent commission. Instead the effort was conducted complete by the Department of Regulatory Agencies & used a series of six roundtables across the state to gather information.

[‡]Four of the five private citizens on the Maine commission had previous state government administrative appointments prior to serving on the commission.

[§]Five of the 17 members were private citizens at the time of their appointment, but all had previous state government administrative appointments previous to serving on the commission.

**Former federal appointee.

Findings

- Commissions made recommendations, but lawmakers often did not put high priority on turning these into policy
 - May be result of commission work being outside of normal legislative process
 - Enabling legislation could mandate recommendations go to state legislature for up or down vote like BRAC recommendations go to Congress
 - Alternative would be for each commission recommendation to be turned into a separate bill & voted then voted on
- Governors will need to expend substantial political capital to accomplish commission goals
 - May mean it is easier for governor coming into office to do this (Maine, Louisiana, Virginia)



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Findings

- Commissions need:
 - Bipartisan composition with representation of executive and legislative branches and some from private sector too
 - Might be good idea for prominent, well-respected private citizen to chair
 - Adequate staff and budget to accomplish their goals
 - Sufficient time to accomplish their goals but not open-ended time commitment
 - Proceedings need to be public or can create suspicion that there's a done deal



Conclusion

For further information or for questions, contact:

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State Government Finances

Michael Heifetz

State Budget Director

Division of Exec Budget & Finance

- State Budget Office:
Policy and Budget
- State Controller's Office:
Accounting & Finance
- Capital Finance Office:
Bonding & College Savings Programs

Division of Exec Budget & Finance

Provide fiscal and policy analysis to the governor for development of executive budget proposals;

Provide accounting, budget and financial services;

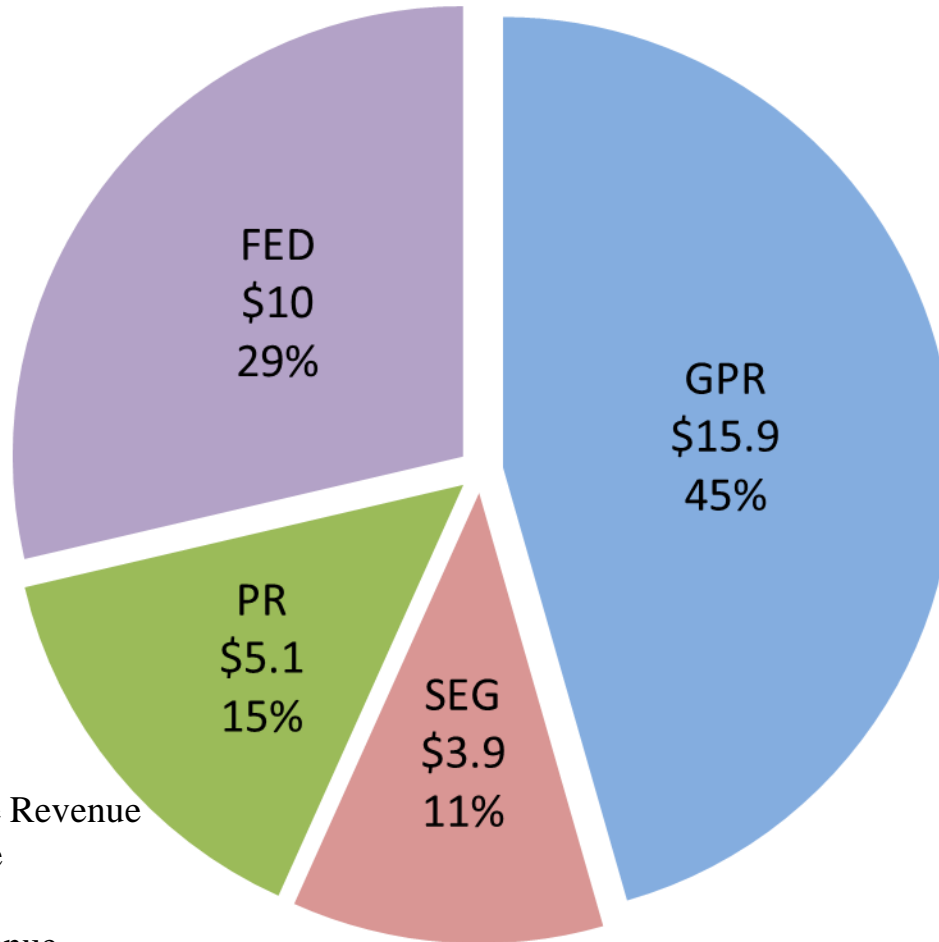
Assist agencies in technical prep of budget requests;

Review legislation and prepare/coordinates fiscal estimates that accompany all expenditure bills;

State Budget Revenue Sources

Fiscal Year 2014-15

In Billions of \$



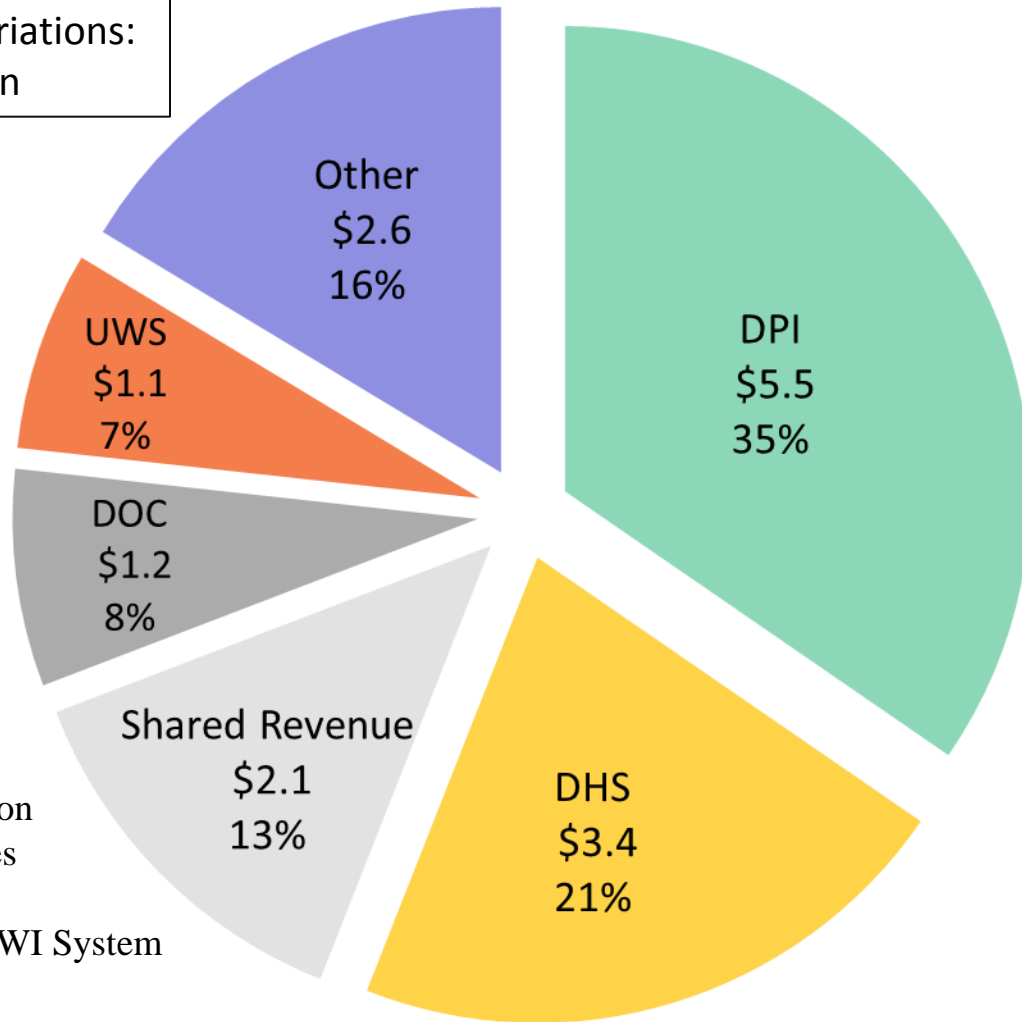
GPR = General Purpose Revenue
FED = Federal Revenue
PR = Program Revenue
SEG = Segregated Revenue

GPR Appropriations

Fiscal Year 2014-15

In Billions of \$

Total GPR Appropriations:
\$15.9 Billion



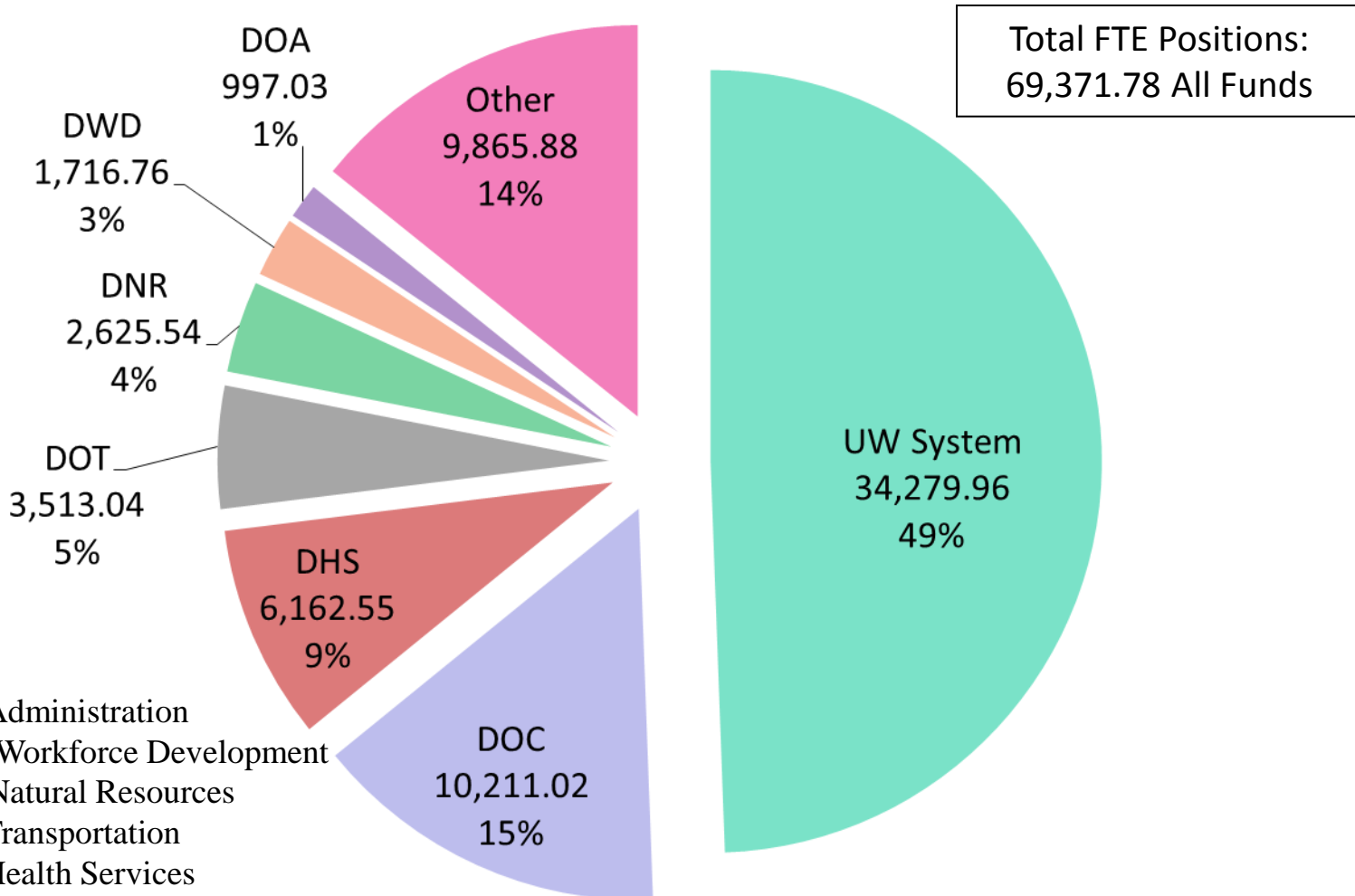
DPI = Public Instruction

DHS = Health Services

DOC = Corrections

UWS = University of WI System

Budgeted State Employees by Agency Fiscal Year 2014-15



DOA = Administration
DWD = Workforce Development
DNR = Natural Resources
DOT = Transportation
DHS = Health Services
DOC = Corrections
UWS = University of WI System

Additional Budget Information

Major Budget Policies found at:

<http://www.doa.state.wi.us/Divisions/Budet-and-Finance/State-Budget-Office>

Legislative Fiscal Bureau:

<http://legis.wisconsin.gov/lfb>

Thank You

The Governor's Commission on Government Reform, Efficiency, and Performance

Executive Order #179

Commission Coordinator
Waylon Hurlburt

Overview

- Objectives
- Mission
- Staff Support
- Motivation
- Background
- Advisory Groups
- Timeline

Objectives

- Performance Measurement
- Shared Services
- Review of Government Services and Programs
- State Facilities Cost
- Agency Structure
- Identify immediate savings
- Identify savings and reforms that can be included in the 2017-19 budget

Executive Order Mission

- Reduce government spending.
- Reduce the cost to maintain government facilities.
- Reduce government service duplication.
- Identify waste, fraud, and abuse in government.
- Improve services to state residents.
- Reform and update public assistance programs to incentivize work and reduce fraud.

Executive Order Mission Continued

- Implement performance informed budgeting improvements.
- Review the core missions of agencies and recommend ways to focus missions.
- Recommend the process to implement the sharing of services for both state and local governments.
- Review government operated programs and services and whether they would be better delivered by non-government entities.

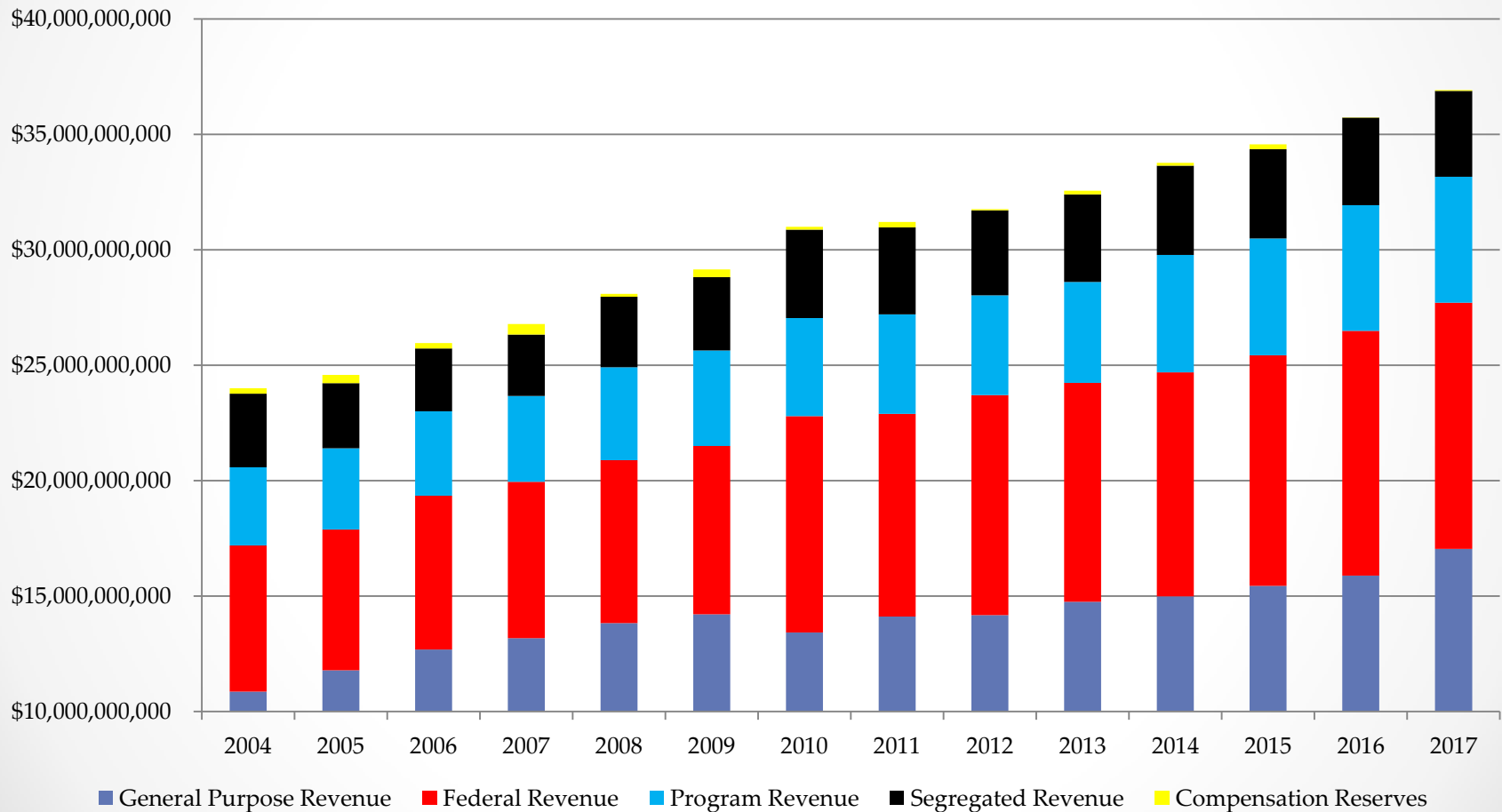
Support

- Staff support shall be provided by the Department of Administration and other state agencies where appropriate.
- The Department of Administration shall produce a report with the assistance of other state agencies and is due prior to the Governor's introduction of the 2017-19 budget.

Motivation

- Continuous improvement.
- Federal mandates and cost pressures.
- Half of all state revenue goes to local governments.
- Wisconsin spends tens of millions annually to maintain its facilities.

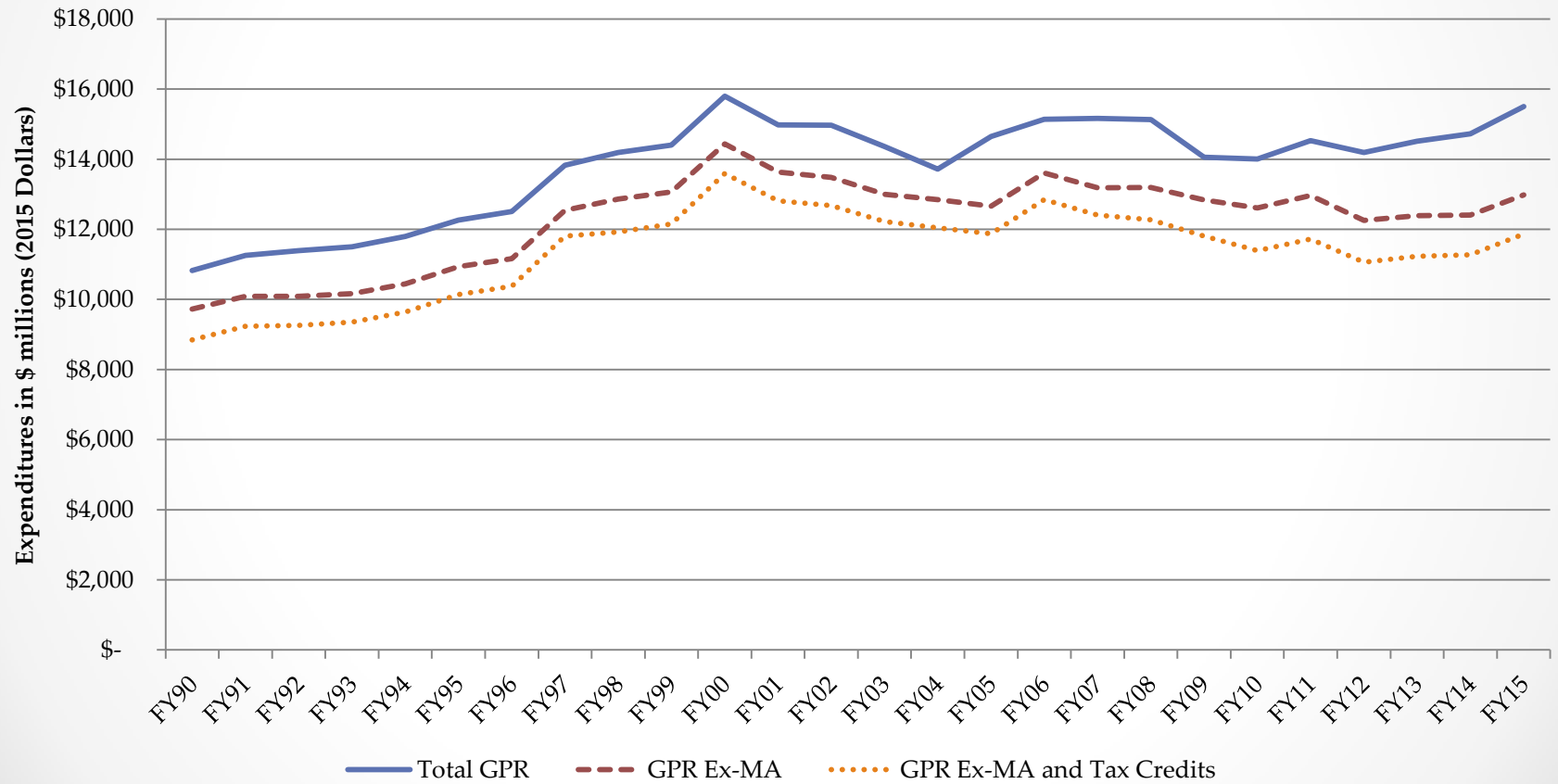
Total State Appropriations Rise; However...



Wisconsin Legislative Fiscal Bureau Appropriations and Authorizations Excluding Bonding
Summary at Time of Budget Passage

Inflation Adjusted General Fund Expenditures Are Down or Flat

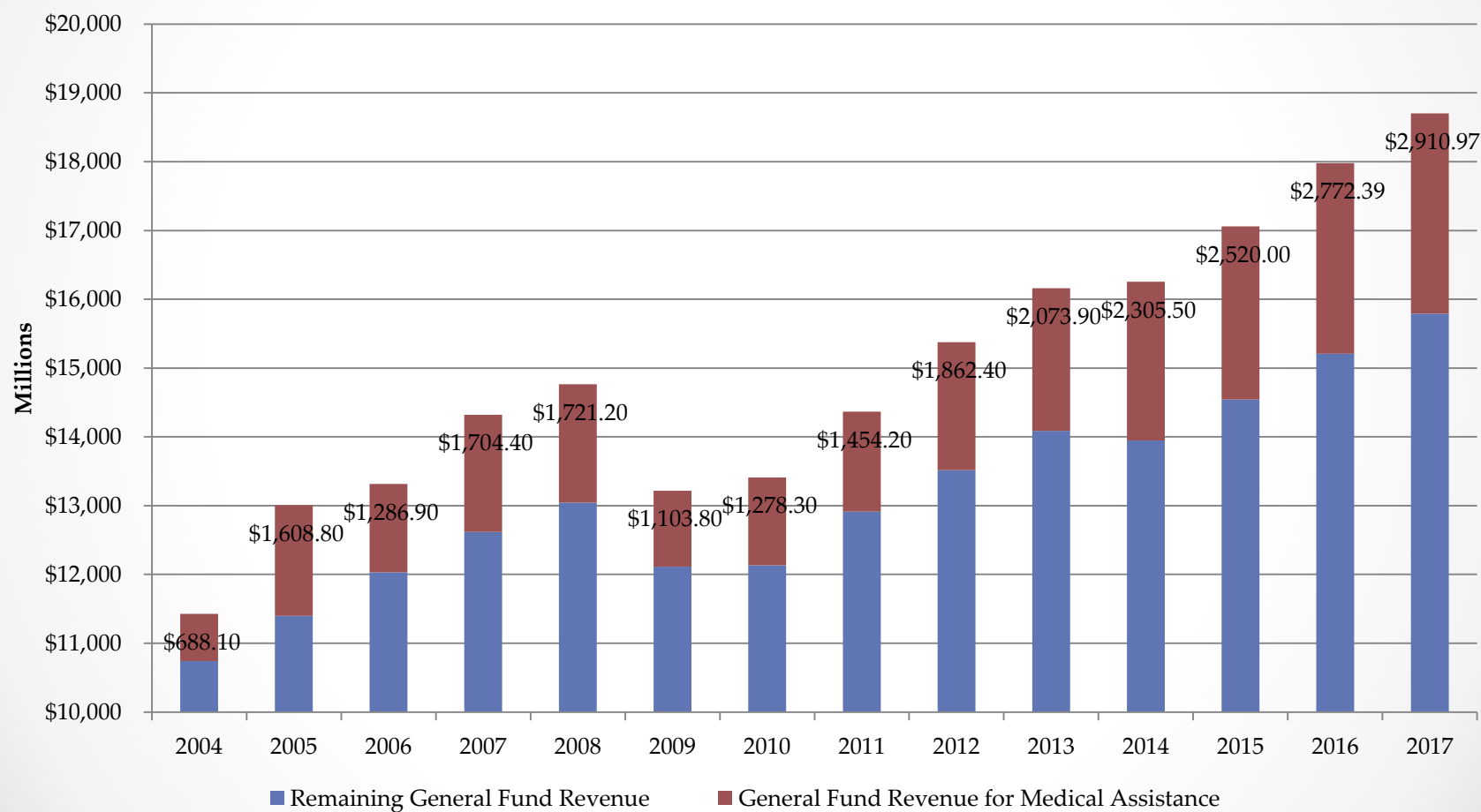
GPR Expenditure Trends - 2015 Dollars



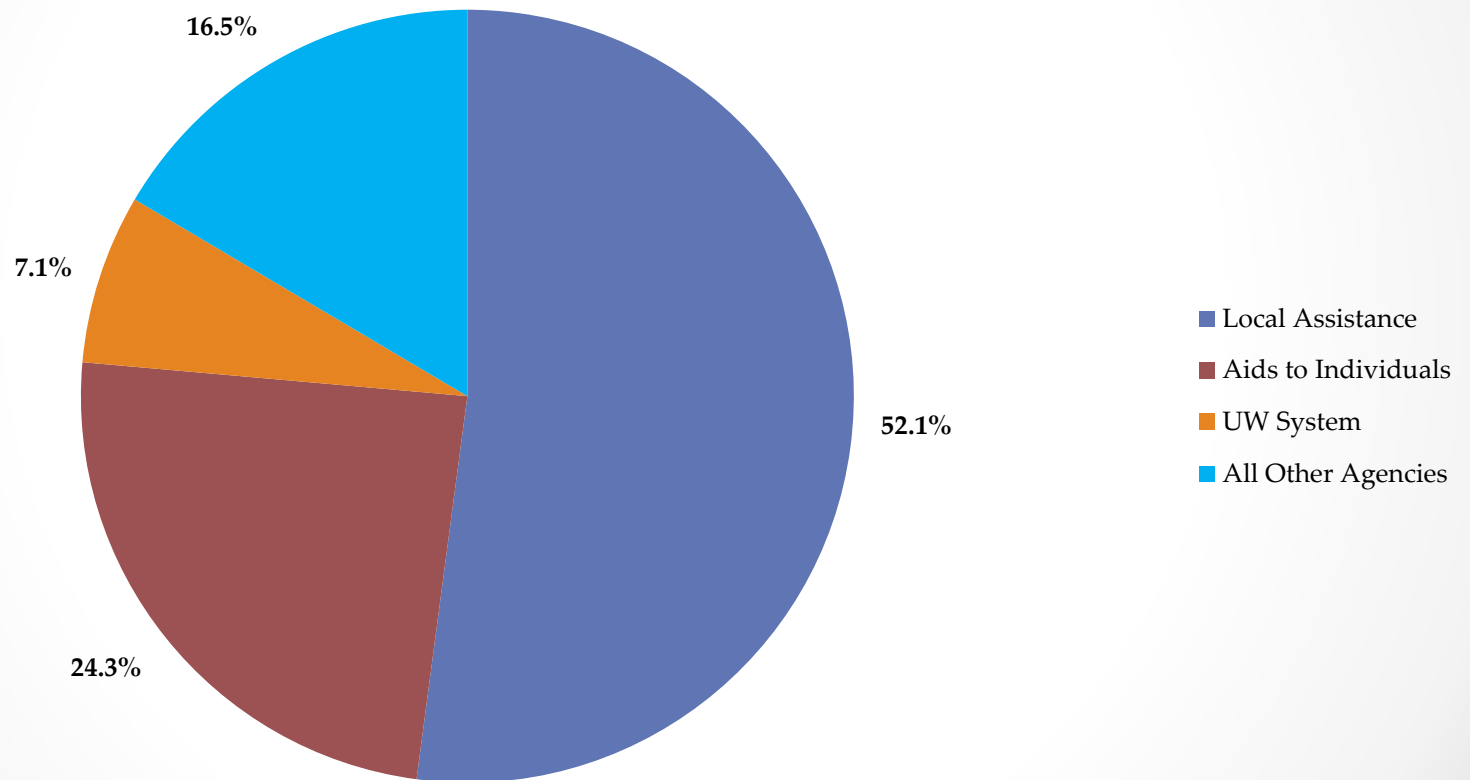
Wisconsin Annual Fiscal Reports

Total General Fund Tax Revenue

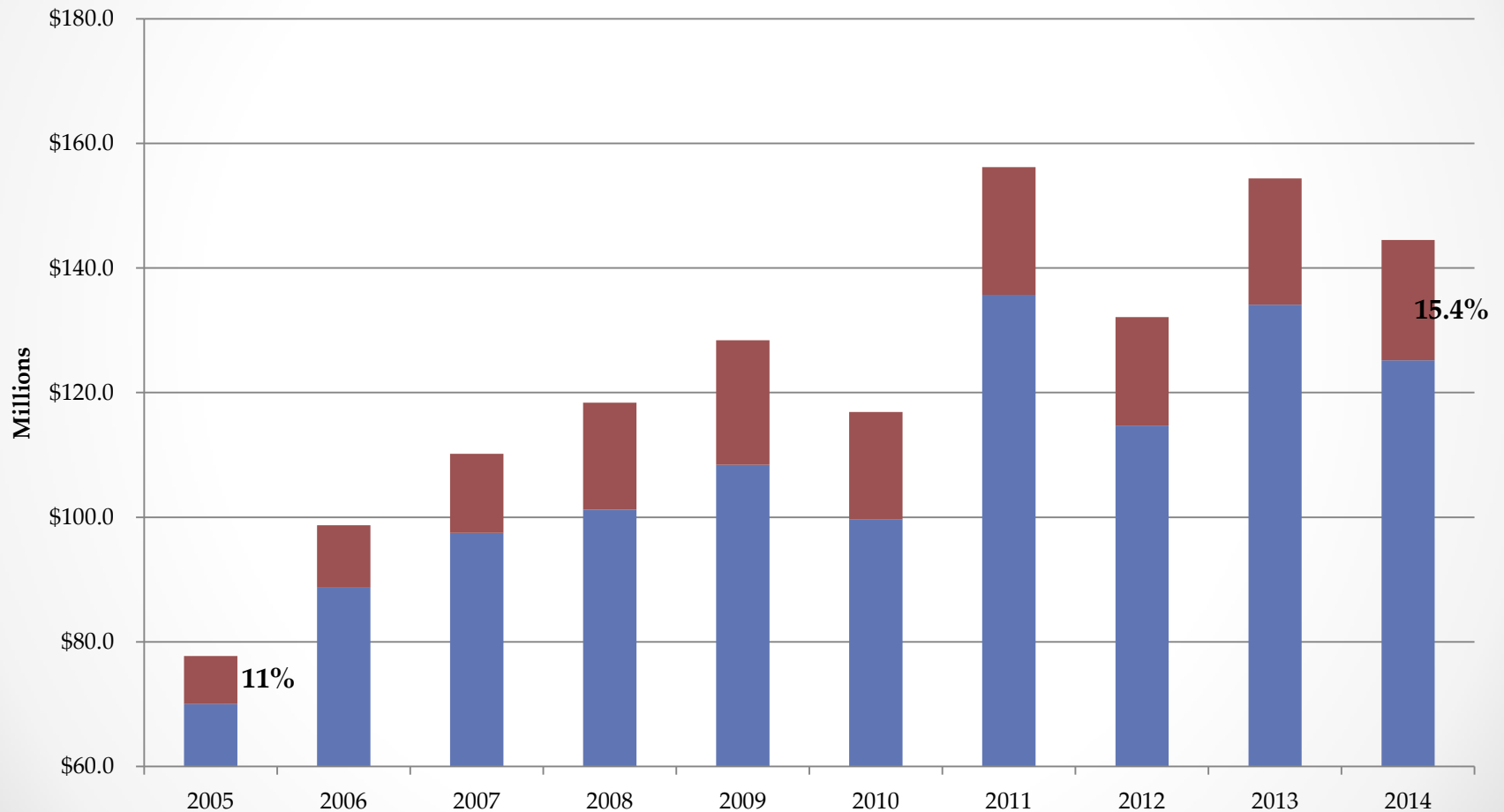
Medical Assistance is a Rising Portion Increasing from 6.4% in 2004 to an Estimated 18.4% of General Fund Revenue in 2017



Local Assistance Is More Than Half of all State General Fund Revenue



Facility Maintenance Spending and the Portion that is Corrections



Employee Costs as Share of State Operations FY16

State

	State Operations*	Employee Costs*	Percentage	FTE
GPR	\$2,819,721,500	\$1,433,385,100	51%	17,433
PR	1,340,578,900	645,117,400	48%	7,469
SEG	1,702,093,800	439,772,400	26%	5,008
FED	1,357,961,200	399,051,300	29%	5,033
	\$7,220,355,400	\$2,917,326,200	40%	34,943

UW

	State Operations*	Employee Costs*	Percentage	FTE
GPR	\$1,029,650,900	\$788,967,100	77%	18,433
PR	3,088,909,900	1,807,428,600	59%	10,914
SEG	28,626,600	9,219,200	32%	129
FED	1,814,125,200	407,826,900	22%	5,584
	\$5,961,312,600	\$3,013,441,800	51%	35,060

State & UW

	State Operations*	Employee Costs*	Percentage	FTE
GPR	\$3,849,372,400	\$2,222,352,200	58%	35,866
PR	4,429,488,800	2,452,546,000	55%	18,383
SEG	1,730,720,400	448,991,600	26%	5,137
FED	3,172,086,400	806,878,200	25%	10,617
	\$13,181,668,000	\$5,930,768,000	45%	70,003

*Includes Salary, Fringe, and LTEs

Retirement Statistics

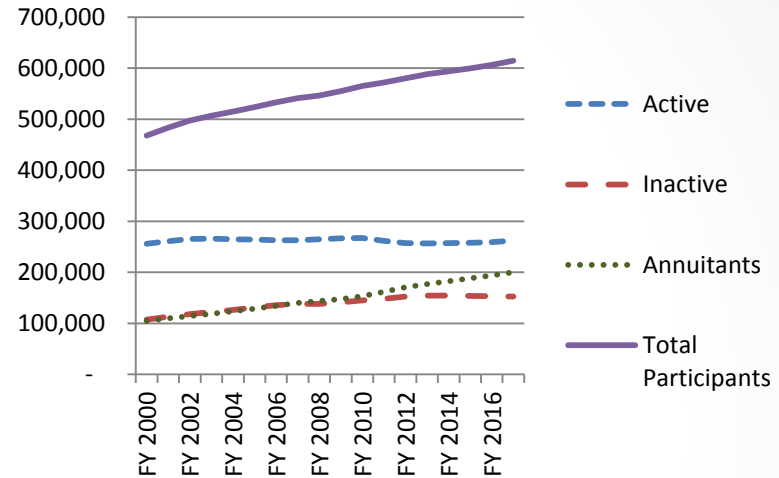
Retirement Estimate Requests (January through September)

2010	15,460	
2011	23,254	50%
2012	16,673	-28%
2013	17,796	7%
2014	19,600	10%
2014 compared to 2010		27%

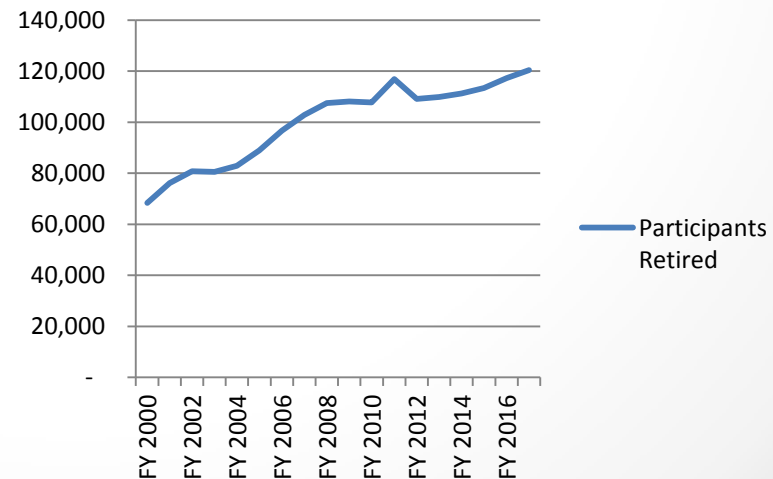
Retirement Applications (January through September)

2010	9,021	
2011	15,701	74.0%
2012	9,339	-40.5%
2013	11,021	18.0%
2014	11,514	4.5%
2014 compared to 2010		27.6%

WRS Participants



WRS Retirements



Advisory Working Groups Focus on Four Areas

- Government reorganization and service delivery reform
 - Local/State service duplication
 - Agency mergers
 - Shared Services
 - STAR Business intelligence tool utilization
- Personnel cost review
 - Staffing levels and management to staff ratios
 - Compensation Plan Review
- Government Waste
 - Catch all for efficiency ideas to save taxpayer cost
 - Agency performance improvements
- Public assistance program modernization
 - Work on enhancing cross matching data systems to eliminate fraud

Shared Services

- The Department of Administration (DOA) must submit a plan to the Legislature to assume human resources functions from executive branch agencies, excluding UW and Technical College Systems prior to March 1, 2017.
- DOA must submit a plan to the Legislature to assume payroll, finance, budgeting, procurement, and information technology functions for certain smaller agencies by March 1, 2017.

Compensation Plan

- The state compensation plan must reviewed and changes suggested to the Legislature by January 1, 2017.

Government Efficiency

- Reducing unemployment insurance fraud
- Going paperless
- Improving customer satisfaction
- Reducing staff hours and workload

Total savings and efficiencies

- More than 2,000 staff hours saved
- An estimated \$4.95 million in all funds savings and revenues

Timeline

- November 5 - Kickoff Meeting
- December Topic – Agency Structure
- Conduct monthly full Commission meetings.
- Have agency advisory subgroups meet throughout to prepare white papers for discussion at the full Commission.
- Wrap up Commission prior to introduction of the Governor's 2017 budget.

Thank You